

Item Clarification – Compelling Reason Determination (OSRI – Item 5)

The Child and Family Services Reviews (CFSRs) Onsite Review Instrument and Instructions (OSRI) is the official instrument to be used in rating a case for CFSR determinations of substantial conformity. This clarification is intended to strengthen how reviewers determine, during case reviews, whether or not there is a compelling reason for determining that termination of parental rights would not be in the best interests of the child. The case reviewer is not tasked with determining whether or not the reason provided is compelling, but rather to determine if one of the compelling reasons below exists.

Question 5G1 – Compelling Reason Clarification:

Based on a review of cited materials and discussion with state policy and program staff across the country, the Administration for Children and Families (ACF) has adopted the following as criteria for making a compelling reason determination. In addition to listing the criteria, where relevant, included in italics is the evidence the caseworker will need to consider and provide in support of the exception.

1. There is a permanency goal of return home, approved by the Court and the child is expected to be reunited with parents within 6 months.
*The caseworker must document evidence in the case record that the parent is making substantial progress in eliminating problems causing the child's placement or subsequent problems which contributed to the child's continued foster care.*²²
2. The child is a specified age (suggested age is 14) or older and objects to being adopted.
The caseworker must document evidence in the case record that the child has participated in specific counseling to discuss all permanency options and understands all the permanency options.
3. The child has severe emotional or behavioral problems or a serious medical condition and reunification remains an appropriate goal.
This reason needs to be documented in the case record with supported clinical evidence on the child's severe emotional, behavioral or medical issues and the need for placement in residential treatment or other intensive treatment. The record should provide evidence that the parent is actively involved in the child's life and is planning for the child's return home.
4. The child has a permanency goal other than adoption (i.e. permanency with kin through guardianship and is expected to achieve that goal within 12 months of establishing the goal).
The caseworker must document the reasons for this exception in the case plan and the steps to be taken to achieve the alternate permanency goal.
5. Parents are deceased, or have voluntarily relinquished rights or consented to adoption by a relative or identified caregiver, or have indicated they will do so within 30 days. If relinquishment or consent does not occur within specified time frame, the compelling reasons determination should be eliminated.
6. A petition for adoption has been filed with the Court.
In these cases, the District Office of the Attorney General (OAG) would be required to move to join the adoption proceedings.
7. The parent is terminally ill, does not want parental rights terminated and has designated the child's present caretaker, with the caretaker's agreement, as the child's permanent caretaker.
This decision would need to be documented in the case plan, supported by the Agency and ratified by the Court with a standby guardianship agreement.
8. The child is an unaccompanied refugee minor as defined in 45 Code of Federal Regulations 400.11.

²² For children with a parent in prison and expected release date within a short specified period of time (i.e. 6 months), this reason might be used once in each case.

9. There are no or insufficient legal grounds for filing a TPR because required reasonable efforts have not been made.

This determination could not be made without legal and supervisory review and documentation of the finding in the case record. In addition, this finding should require a case plan revision with specific actions to make reasonable efforts, and frequent (every three to six months) review of progress.

10. There are international legal obligations or compelling foreign policy reasons that would preclude terminating parental rights.